

**REMARKS**

Applicants respectfully request reconsideration of the instant application in view of the foregoing amendments and the following remarks. Claims 1, 4-6, 10-15, 17, and 18 are pending in the instant application. Claims 7-9, 16, and 19 have been previously canceled. Claims 1, 10, 17, and 18 are independent claims. Claims 1, 10, 17 and 18 have been amended by way of this response; although these claims have been amended herein to provide clarification, correct typographical inaccuracies and/or informalities, and/or to better track practical/commercial implementations/practices, Applicants submit that the originally filed claims are patentable and reserves the right to pursue the originally filed claims (as well as any claims dependent therefrom) at a later time and/or in one or more continuation/divisional application(s). Applicants submit that these claim amendments are supported throughout the originally filed specification and that no new matter has been added by way of these amendments.

**Rejections Under 35 USC § 112**

Claims 1, 10, 17 and 18 have been rejected under 35 U.S.C 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Although Applicants respectfully traverse this rejection and submit that claims 1, 10, 17 and 18 are definite and clearly set forth as would be understood by one of ordinary skill in the art at the time the invention was made, Applicants have amended claims 1, 10, 17 and 18 to provide further clarification, correct typographical inaccuracies and/or informalities, and/or to better track practical/commercial implementations/practices.

In the pending rejection, the Examiner alleges that "[a]s per claims 1, 10, 17 and 18, it recites "indication of a level of confidence associated with netting determination"

without distinctly pointing out different level of confidence for the netting determination" (p. 2, § 2, Office Action). Amended independent claim 1, 10, 17 and 18 recite, "...wherein said netting determination includes a qualification of said netting agreement and a level of confidence indicative of enforceability, wherein the level of confidence is retrieved from a rule database based on an outcome of the rule application... ."

Accordingly, Applicants respectfully request reconsideration and withdrawal of these grounds of rejections.

### **Rejections Under 35 USC § 102**

Claims 1, 4-6, 10-15, and 17-18 have been rejected under 35 U.S.C. 102(e) as being allegedly unpatentable over Bell, UK Patent application No. 2,354,608 (hereinafter "Bell"). Although Applicants respectfully traverse the rejection and submit that Bell does not discuss or anticipate each and every element of the claims, Applicants have amended independent claims 1, 10, 17 and 18 to provide further clarification, correct typographical inaccuracies and/or informalities, and/or to better track practical/commercial implementations/practices.

Amended independent claim 1 recites, *inter alia*,

A method for performing a netting analysis of a netting agreement, the method comprising:

...

generating a netting determination indicative of an ability of the party and counterparty to net under said netting agreement based, at least in part, on a result of said comparing, wherein said netting determination includes a qualification of said netting agreement and a level of confidence indicative of enforceability, wherein the level of confidence is retrieved from a rule database based on an outcome of the rule application.

In the pending rejection, the Examiner alleges that Bell discusses the cited claim element in "Fig. 3b, step 39; page 9, lines 14-30 to page 10, lines 1-11; where engine 13 calculate the counterparty credit value, a netting determination, of transactions in a proposed agreement provided the indication of level of confidence is "YES" which provides projected exposure values for future deal dates" (p. 4, ¶ 3, Office Action). Applicants respectfully traverse and submit that Bell does not discuss or render obvious at least the cited claim element from amended independent claim 1.

Instead, the Examiner's cited portions of Bell, page 9, lines 14-30 to page 10, lines 1-11, discuss determining a close-out netting status which is a either yes or no status indicating the existence of an agreement prior to subsequent processing. More specifically, Bell discusses the "close-out netting status" "is set to NO", "if no agreements are found"; "[i]f an agreement is located, the engine 13 then checks each agreement for this counterparty against the process steps below until it determines that the close-out status is YES..." (p. 7, lns 14-17, Bell). Bell also discusses "[t]he close-out netting status is then set to YES and the process returns to step 27. The engine 13 then proceeds to calculate the counterparty credit value of transactions in a proposed agreement provided in the status is YES..." (p. 9, lns 14-30, Bell). Applicants submit Bell's system reads the "close-out netting status" which indicates whether any agreement under the netting is established, in order to determine the next processing step, but has no concept of "the level of confidence ... retrieved from a rule database based on an outcome of the rule application" as recited in amended independent claim 1. As such, Applicants submit Bell does not anticipate the claimed "generating a netting determination indicative of an ability of the party and counterparty to net under said netting agreement based, at least in part, on a result of said comparing, wherein said netting determination includes a qualification of said netting agreement and a level of confidence

indicative of enforceability, wherein the level of confidence is retrieved from a rule database based on an outcome of the rule application ..." as recited in independent claim 1.

Furthermore, Applicants note that in the office action dated November 26, 2008, the Examiner actually admits the deficiencies in Bell, stating that "Bell does not teach the netting determination having an indication of a level of confidence associated with the netting determination that indicates an enforceability of the netting determination in addition to a qualification of the netting determination" (¶ 3, p. 4, November 26, 2008 Office Action; emphasis original). For at least these reasons, Applicants submit Bell does not discuss or anticipate each and every element of independent claim 1 under 35 U.S.C. § 102.

Applicants further submit that Bell does not discuss or anticipate the claimed "... said netting rule is established by training a netting decision engine ..." as recited in amended independent claim 1.

Accordingly, Applicants submit that the pending rejection has not established a *prima facie* case of anticipation by neglecting and/or mischaracterizing claim elements and the applied reference.

In the pending rejection, the Examiner further alleges that "[t]he claim language "associated with the netting determination that indicates an enforceability of the netting determination in addition to a qualification of the netting determination" is an intended use recitation and therefore, do not carry any patentable weight (see MPEP Form Paragraph 07-37-09)". Although Applicants have amended claims 1, 10, 17 and 18 to provide further clarifications, correct typographical inaccuracies and/or informalities, and/or to better track practical/commercial implementations/practices, Applicants respectfully disagree with the Examiner and submit that the previously presented "a level of confidence

associated with the netting determination that indicates an enforceability of the netting determination in addition to a qualification of the netting determination" is an element of the claimed "netting determination", and thus is directed to patentable subject matter. Applicants further submit that it is not clear what specific sections the Examiner intends to cite from MPEP by providing "MPEP Form Paragraph 07-37-09." As such, Applicants respectfully traverse the Examiner's characterizations of the claims, and submit that the previously presented claims are patentable. Applicants submit that the claim language are in accordance with MPEP § 2106 and should be accorded patentable weight, and request substantive examination of each and every element of the pending claims.

The MPEP prescribes that, "when evaluating the scope of a claim, *every limitation in the claim must be considered*," [§ 2106 II(C), emphasis added] and, "*All words in a claim must be considered in judging the patentability of that claim against the prior art*." [§ 2143.03, emphasis added]. Because the pending rejection has not established a *prima facie* case of anticipation by neglecting and/or mischaracterizing claim elements and because the applied reference does not discuss or render obvious at least the claim elements discussed above, Applicants respectfully request reconsideration and withdrawal of this basis of rejection. Should the Examiner maintain the rejection, Applicants respectfully request that the Examiner provide specific citations and explanations describing how each and every element of independent claim 1 are allegedly anticipated by Bell, providing indications of specific, alleged correspondences between claim elements and cited portions of Bell.

Furthermore, Applicant submits that claims 4-6, which depend directly or indirectly from independent claims 1, are also not anticipated by Bell for at least similar

reasons as those discussed above identifying deficiencies in Bell with regard to independent claim 1.

Although of different scope than independent claim 1, Applicants submit that independent claims 10 (and claims 11-15), 17, and 18 are also patentably distinct from Bell, for at least similar reasons to those discussed above identifying deficiencies in the Bell with respect to independent claim 1.

Accordingly, Applicants respectfully request reconsideration and withdrawal of these grounds of rejections.

### **CONCLUSION**

Consequently, the reference(s) cited by the office action do not result in the claimed invention, there was/is no motivation for such a combination of references (i.e., cited references do not teach, read on, suggest, or result in the claimed invention(s)), and the claimed inventions are not admitted to be prior art. Thus, the Applicants respectfully submit that the supporting remarks and claimed inventions, claims 1, 4-6, 10-15, 17, and 18, all: overcome all rejections and/or objections as noted in the office action, are patentable over and discriminated from the cited reference(s), and are in a condition for allowance. Furthermore, Applicants believe that the above remarks, which distinguish the claims over the cited reference(s), pertained only to noted claim element portions. These remarks are believed to be sufficient to overcome the prior art. While many other claim elements were not discussed, Applicants assert that all such remaining and not discussed claim elements, all, also are distinguished over the prior art and reserves the opportunity to more particularly remark and distinguish such remaining claim elements at a later time should it become necessary.

Further, any remarks that were made in response to an Examiner objection and/or rejection as to any one claim element, and which may have been re-asserted as applying to another Examiner objection and/or rejection as to any other claim element(s), any such re-assertion of remarks is not meant to imply that there is commonality about the structure, functionality, means, operation, and/or scope of any of the claim elements, and no such commonality is admitted as a consequence of any such re-assertion of remarks. As such, Applicants do not concede that any claim elements have been anticipated and/or rendered obvious by any of the cited reference(s). Accordingly, Applicants respectfully request allowance, and the reconsideration and withdrawal of the rejection(s) and/or objection(s).

If a telephone conference would facilitate prosecution of this application in any way, the Examiner is invited to contact the undersigned at the number provided.

**AUTHORIZATION**

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 03-1240, Order No. 17209-319. In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 03-1240, Order No. 17209-319.

Respectfully submitted,  
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